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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,155	08/25/2003	Warren Cohen	ALLUM-1	1277
32132	7590	01/25/2005	EXAMINER	
LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,155

Applicant(s)

COHEN, WARREN

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/25/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for application number 10/647,155, Mounting System for Mounting a Support Rail to a rail of a deck, filed on 8/25/03. Claims 1-19 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

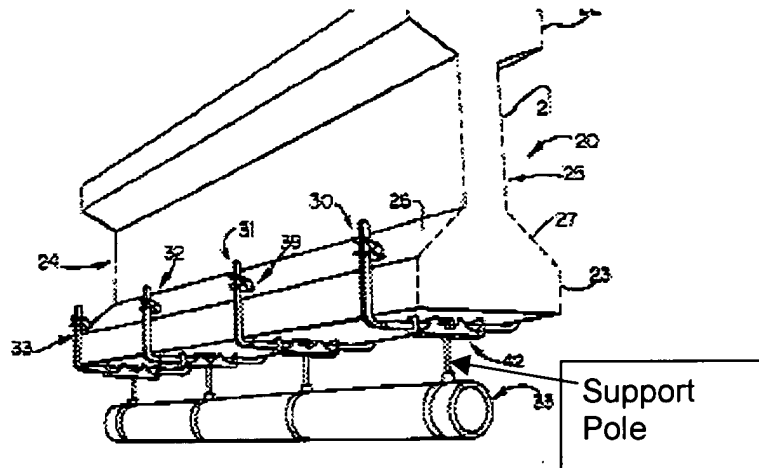
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10-12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6012691 to van Leeuwen et al.

The patent to van Leeuwen et al. discloses a mounting system having a flat base structure (42) having a top side and a bottom side, two opposing elements (37, 38) extending from the bottom side of the flat base structure (42), which are positionally adjustable to create a selected distance between the opposing elements and wherein each opposing elements define a plurality of at least three stepped surfaces (54) that are generally parallel to the bottom side of the flat base structure (42) and at different distances from the base. Van Leeuwen et al. also discloses an adjustment mechanism (79) and a support pole (which is located in 82, See Drawing Below) that extends

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perpendicular to the flat base structure and extends from the top surface of the base structure (42).



Van Leeuwen et al. also discloses that the flat base structure (42) defines a track (See Description in Col. 5, line 40-46) , wherein both opposing elements (37, 38) are slidably adjustable and selectively positionable within the track.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6012691 to van Leeuwen et al. as applied to claims 1, 3, and 4 above

and in view United States Patent No. 709816 to Collins and further in view of United States Patent No. 5274888 to Payne.

Van Leeuwen et al. shows the basic inventive concept as shown above with the exception that it does not teach that bolts are used for selectively locking the elements in a fixed position.

Collins teaches a device with a base structure (3) and opposing slideable elements (b) which have a bolt (d) used to selectively adjust the distance between the opposing elements and to fix the opposing elements in place.

Van Leeuwen et al. also does not teach that bolts (being interpreted as meaning more than one bolt) were used.

Payne teaches a mounting device having two slideable opposing elements (10, 12) which have two fastening devices, used in order to fasten each opposing element separately.

Therefore it would have been obvious from the teachings of Collins and Payne to have used two fasteners, both being bolts, in order to selectively adjust each opposing element to the desired distance and to fix the elements in that position.

Claims 7-9, 13-15 and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6012691 to van Leeuwen et al. as applied to claims 1 above.

Van Leeuwen et al. shows the basic inventive concept as shown above with the exception that it does not specifically teach the dimensions of three quarters of an inch

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for a first stepped surface, one inch for a second stepped surface and one and a half inches for a third stepped surface as related to the bottom surface of the flat base structure. The step locations, as taught by van Leeuwen et al. are a design choice which would be optimized by the user, and therefore these dimensions would have been obvious to one of ordinary skill in the art, used at the desired dimensions in order to be able to hang the desire device at the desired distance from the supporting element.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various mounting systems

6588713 to Kilkenny

6276651 to Dolan

4784621 to Auclair

1279669 to Deming

769746 to Hewlett

702704 to Carl


631887 to Clark

535277 to Zocher

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Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.


Amy J. Sterling
1/11/05